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# Maine State Board of Arbitration and Conciliation Annual Report, Fiscal Year 2002

Maine State Board of Arbitration and Conciliation

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# STATE BOARD OF ARBITRATION AND CONCILIATION

## ANNUAL REPORT

### FISCAL YEAR 2002

This report is made pursuant to 26 M.R.S.A. § 931 (1988 and Supp. 2001).

Administrative Developments. During the course of the year, the Board's operations and administration were reviewed by the Joint Standing Committee on Labor of the Legislature, pursuant to the provisions of the Government Evaluation Act. This program review was conducted in conjunction with that of the operations of the Maine Labor Relations Board ("MLRB"), whose Executive Director and staff also provide professional and administrative support to the Board. As required by law, a detailed report discussing the Board's programs was reviewed by the Labor Committee. Primary Board Chair Shari B. Broder and Primary Employer Representative Virgil E. Beane attended the Labor Committee's Public Hearing on January 8 where the Executive Director's briefed the Committee and responded to questions in connection with The Board's dispute resolution program. On March 13, the Labor Committee issued a unanimous report to the President of the Senate and the Speaker of the House, indicating that the Board was successfully discharging its statutory responsibilities and thereby concluding the GEA process.

For the first time in several years, there were no changes in the complement of Board members this year. One member, Alternate Chair Barbara L. Raimondi of Auburn, was reappointed by Governor King, on November 14, 2001. Primary Board Chair Shari B. Broder of Freeport, Primary Employee Representative Robert F. Bourgault of Biddeford, Primary Employer Representative Virgil E. Beane of Cumberland Center, Alternate Chair Peter P. Michaud of Cape Elizabeth, Alternate Employee Representatives Shawn C. Keenan of Bath and Chester G. ("Chuck") Hillier of Monmouth, and Alternate Employer Representative Kate S. Debevoise of Yarmouth continued to serve in their respective capacities. The competence of the Board's membership is high, consisting of able neutrals and partisan members known throughout the Maine labor relations community. A vacancy currently exists for an Alternate Employer Representative and the Board members look forward to welcoming

a new colleague in the near future.

Roger A. Putnam of the MLRB staff coordinated the Board's activities and served as the primary liaison with the client community. MLRB Executive Director Marc P. Ayotte continued to serve as the Board's general administrator and legal advisor.

Activities of the Board. The 22 total cases filed this year compares with 31 total filings in the previous fiscal year. During the last twenty years, the year with the greatest number of filings (75) was FY 1987 and the fewest cases (22) were filed in FY 02. During that period, an average of 39.8 cases were filed each year.

As in past years, the bulk of the Board's case load involved hearing and resolving grievance disputes, requiring interpretation of collective bargaining agreements. Grievances are disputes that arise due to differing interpretations by the parties of the provisions of their collective bargaining agreement. Of the 22 requests for services received this year, the 19 filings involving grievance arbitration matters were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
AFSCME, Council 93	Augusta	Promotion Grievance
AFSCME, Council 93	Cumberland County	Termination
AFSCME, Council 93	Cumberland County	Longevity Stipend
AFSCME, Council 93	Mexico	Overtime Pay
AFSCME, Council 93	Winslow	Overtime Grievance
AFSCME, Council 93	Winslow	Verbal Reprimand
AFSCME, Council 93	Winslow	One-week Suspension
AFSCME, Council 93	Yarmouth	Removal from Driving
MSEA	York County	Wage Scale
MSEA	York County	Holiday Time

Old Orchard Beach PBA	Old Orchard Beach	Base Salary Grievance
Scarborough PBA	Scarborough	Termination
Teamsters Local 340	Cumberland County	Promotion Grievance
Teamsters Local 340	Cumberland County	Filling Vacancies
Teamsters Local 340	Cumberland County	Demotion
Teamsters Local 340	Cumberland County	Schedule Change & O.T.
Teamsters Local 340	Somerset County	Promotions
Teamsters Local 340	Washington County	Health Insurance Premium
Teamsters Local 340	Waterville	Reinstatement to Position

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with “their” respective party, assess that party’s real needs and concerns in the matter at issue, and help the party to determine the relative strengths and weaknesses of their position. The partisan members then caucus to ascertain whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that parties resolving their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. Of the 13 grievance arbitration cases on which the Board met this year, settlement was reached in one case. Thirteen cases were withdrawn by the parties prior to hearing, 2 cases were withdrawn after two days of hearing and lengthy settlement discussions, and 8 cases are pending.

The Board also received 3 requests for fact-finding services this year, down from 6 requests received last year. The latter type of case arises when parties, with or without the assistance of a mediator, are unable to reach accord on an initial or successor collective bargaining agreement. The following requests for fact-finding were received this year:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Result</u>
Winslow Ed. Assn.	Winslow School Board	Withdrawn
Gray-New Gloucester ESP	SAD 15 School Board	Report issued
Cancardix Ed. Assn.	SAD 21 School Board	Report issued

Interest arbitration is the final step of the statutory dispute resolution mechanism under the various public sector labor relations laws. The major difference between fact-finding and interest arbitration is that, in the latter process, the panel's determinations are binding on the parties, except in regard to disputes concerning wages, pensions, and insurance. The Board received no requests for interest arbitration services this fiscal year.

Unless the appellant charges that an arbitration award is the product of corruption, fraud or other undue means, the Board is not a proper party in judicial proceedings reviewing the merits of the its awards. In a case decided this year in which Board corruption was not at issue on appeal, the Executive Director of the MLRB worked with the parties to secure dismissal of the Board as a party to the review action. In the end, the Superior Court affirmed the Award issued by the majority of the Board.

In addition to participating in formal dispute resolution proceedings, the Board maintained informal contact with its client community through co-sponsoring a seminar on dealing with difficult people in negotiating and administering collective bargaining agreements. This program, conducted on April 5 at the Portland office of the Department of Human Services, featured Tom Colosi, the former Vice President of Alternative Dispute Resolution Education for the American Arbitration Association and the author of several books on negotiations and dispute resolution. The Board of Overseers of the Bar allowed attorneys 2.75 hours of continuing legal education credit for attending and participating in the program. The seminar attracted over 50 labor relations practitioners.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. The Board's mission is to improve the labor-management climate in the public sector by providing high quality professional services to our client community, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 28th day of June, 2002.

Respectfully submitted,

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Marc P. Ayotte, Executive Director  
Maine Labor Relations Board